

1
2
3
4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9

10
11 ZAC PROPERTIES, LLC,

12 Plaintiff,

13 v.
14

15 VAUGHN RHOADES, et al.,

16 Defendants.
17

Case No. 13-2139 JSC

**ORDER TO SHOW CAUSE TO
DEFENDANTS**

18 Plaintiff brought this state law unlawful detainer action against Defendants in the Superior
19 Court of California for the County of Alameda. Defendants, representing themselves, subsequently
20 purported to remove the action to this Court on the basis of federal question jurisdiction. Defendants
21 allege that the Protecting Tenants at Foreclosure Act of 2009 (“PTFA”), 12 U.S.C. § 5220, preempts
22 state law as to bona fide residential tenants of foreclosed landlords. (Dkt. No. 1.)

23 Defendants, as the party seeking removal to this federal court, bear the burden of establishing
24 that subject matter jurisdiction exists, and courts strictly construe the removal statute against removal
25 jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992). Further, when a case is
26 removed to federal court, the court has an independent obligation to satisfy itself that it has federal
27 subject matter jurisdiction. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). The
28

1 Court has reviewed the Notice of Removal and has determined that federal question jurisdiction does
2 not exist.

3 “Federal question jurisdiction exists only when a federal question exists on the face of a well-
4 pleaded complaint.” *ING Bank, FSB v. Pineda*, 2012 WL 2077311 *1 (N.D. Cal. June 8, 2012). The
5 removed complaint makes only a state law claim for unlawful detainer. Therefore, this Court does
6 not have federal question jurisdiction. *ING Bank, FSB*, 2012 WL 2077311 at *1. That Defendants
7 raise defenses and preemption arguments related to the PTFA is irrelevant; a defendant cannot create
8 federal subject matter jurisdiction by adding claims, raising defenses, or alleging ordinary
9 preemption. *Holmes Group, Inc. v. Vornado Air Circulation*, 535 U.S. 826, 830-31 (2002); *Valles v.*
10 *Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim
11 does not confer jurisdiction on a federal court, even if the defense is that of federal preemption and is
12 anticipated in the plaintiff’s complaint.”); *Federal Nat. Mortg. Ass’n v. Sue Lin Poh*, 2012 WL
13 3727266, at *2 (N.D. Cal. Aug. 28, 2012) (remanding removed unlawful detainer action).

14 Accordingly, Defendants are ORDERED to SHOW CAUSE as to why this case should not
15 be remanded to the Alameda County Superior Court. In particular, if Defendants believe that this
16 Court has subject matter jurisdiction, they shall file a response in writing by **May 28, 2013** that
17 demonstrates why this Court has jurisdiction. Defendants are warned that their failure to file a
18 response will result in remand of this action to state court for lack of federal jurisdiction.

19
20 **IT IS SO ORDERED.**

21
22 Dated: May 13, 2013

23 
24 JACQUELINE SCOTT CORLEY
25 UNITED STATES MAGISTRATE JUDGE
26
27
28